

# Austria's new government: a victory for the tobacco industry and public health disaster?

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In Austria the conservative Austrian People's Party (Oesterreiche Volkspartei, OeVP) won the 2017 elections, and negotiated with the third-largest party, the right-wing nationalist Freedom Party of Austria (Freiheitliche Partei Oesterreichs, FPÖ) to form a new government. In its election campaign, the FPÖ had promised to attack the tobacco law, which had been passed by the Austrian parliament in 2015, supported by the SPÖ (social democrats), OeVP and Green Party.

The tobacco control law followed European Union directives, but also WHO recommendations to ban shisha and vaping where smoking is forbidden, and ban smoking in all hospitality venues without exceptions. A three year transition period had been granted to the hospitality industry (the longest in Europe, for "confidence") before the law was supposed to enter into force on May 1<sup>st</sup>, 2018. The FPÖ's promise, spearheaded by its leader Heinz-Christian Strache, to roll back even this modest proposal raises concerns that its campaign was supported by the tobacco industry. Austria has limited transparency regarding political donations. The Green Party has demanded reform, however this has been blocked by both the FPÖ and OeVP.

Although Austria no longer has a domestic tobacco industry, historic connections between the tobacco monopoly administration and the ministries of finance and economy continue. There are 5784 tobacco shops, 2417 other stores including gas stations, 933 hospitality venues and some food markets which are allowed to sell tobacco in Austria. Tobacconists, which also sell newspapers and a variety of goods for children, are a powerful lobby. Tobacco products are advertised in and around their shops (which are exempt from smoking bans), and they distribute free cigarettes whenever a new product is put on the market. Theoretically tobacconists are obliged to control the age of young people buying tobacco, but enforcement is extremely limited.

Cigarettes are available around the clock in Austria, making them more accessible than staple foods. The 6500 vending machines throughout the country are plastered with tobacco advertising; an effective loophole to circumvent advertising bans. Warning regulations of the EU tobacco product directive are ignored and tobacconists pretend that the machines are "child-proof" by electronic age control, which is ineffective. The price for Austria's lack of effective tobacco control is shamefully high youth smoking prevalence, particularly compared to other high income countries. A [2013 OECD report on 26 states](#) (page 47) listed Austria as having the highest smoking prevalence of children aged 15, a position it held since 1994. In the [last survey](#), 18% of Austrian children aged 15 reported being daily smokers. Austria refused to take part in child surveys with control of cotinine.

The legal age for purchasing cigarettes is 16, but in 2010 18% of boys and 21% of girls aged 15 were smoking daily. This increased to 35% in boys and 30% in girls at age 17. In the province of Styria, 11-15 year old smokers reported easily obtaining cigarettes from tobacco shops (31.1%), vending machines (27.8%) and from other smokers (27.1%). A 2014 survey in two provinces and the capital city Vienna found that the sources of cigarettes for 13 year olds were friends (75%), tobacco shops (35%) and vending machines (10%). By the age of 15, 62% reported obtaining cigarettes from friends, 68% from tobacco shops and nearly 50% from vending machines. In the same year, a test series of mystery shopping in Upper Austria proved that nearly 60% of tobacco shops and gas stations sold cigarettes to 14 to 15 year old children. Although child smokers contribute tobacco tax, the proceeds are not invested into tobacco prevention.

Austria introduced smoke-free workplace legislation in 2001 (with the exception of the hospitality industry), but a 2006-2007 survey found only 72% of non-smokers reported a smoke-free or nearly smoke-free workplace. Five per cent suffered from daily passive smoking for >5 hours per day, 8% for 1-5 hours per day, 12% for <1 hour per day and 3% worked at home, where 10% of nonsmokers reported secondhand smoke exposure. A ban of smoking in public buildings in 2005 was not enforced and schools only became smoke-free in 2006 (excluding non-compulsory schools).

It was not before 2009 that sanctions for violations of non-smoker protection were introduced. Even then, loopholes for the hospitality industry made many of the regulations virtually meaningless. Although the hospitality industry was obliged to provide non-smoking rooms, an exception was made for small, single-room enterprises. In premises below 50 m<sup>2</sup> the innkeeper still can choose to be a smoking inn, if indicated by a sign. Owners of premises between 50 and 80 m<sup>2</sup> could apply for the same exemption at the building inspection. As expected, most small bars and pubs remained smoking for fear of losing guests to neighboring smoking establishments.

Inns over 80m<sup>2</sup> were allowed to stay without separation until mid-2010. Afterwards they were required to prevent smoke from entering the non-smoking section, but the law did not give detailed instructions. No authority was tasked with enforcement, and police, work inspectors and food inspectors were not allowed to control smoking in the hospitality industry. Reporting of violations was left to guests, but they were required to show proof by taking photos and knowing the name of the violator. The Austrian Council on Smoking and Health and other health NGOs received numerous reports of guests who did report violations facing abuse and harassment, including being labeled "squealers", having their photo posted as unwanted guests at the entrance of premises they had reported, and being illegally forbidden to enter.

Austria's weak laws contrast starkly with neighbouring Italy, where innkeepers had been obliged in 2005 to report offenders against new smoke-free laws to the police. The law was a success, with nearly full compliance and around 95% support for the ban following implementation. Even smokers recognized that the law helped them to smoke less, or quit completely. As has occurred elsewhere, the law also encouraged smoke-free homes.

Among all OECD countries only Austria, Latvia and Slovakia failed to reduce their smoking prevalence since 2000. In 2014, male smoking prevalence in Austria was 26.7% and female smoking prevalence 22.2%. Recent data indicates prevalence is increasing among females, persons with low education, unskilled workers, unemployed, and migrants. Since 2007 Austria has consistently had the lowest score in the Tobacco Control Scale of the European Cancer Leagues, primarily due to the influence of tobacco industry and tobacco trade. Meanwhile, both public opinion and the advice of medical science were ignored by policy-makers.

OeVP voters are 85% non-smokers and their non-smoking new leader Sebastian Kurz had promised that he would stick to the tobacco law, which had been fully supported by his party in 2015. However, during the negotiations with Strache, media reported that he was willing to sacrifice the tobacco law and trade it for the tolerance of FPOe to sign the EU-Canada Comprehensive Economic and Free Trade Agreement (CETA).

The reports caused alarm among health professionals, both in Austria and internationally. Numerous associations appealed to Kurz not to give in, including the European Public Health Alliance, Brussels; Smokefree Partnership, Brussels; member organisations of the European Network for Smoking and Tobacco Prevention, Society for Research on Nicotine and Tobacco Europe, UK Centre for Tobacco and Alcohol Studies; WHO Collaborating Center for Tobacco Control, Barcelona; Medical Action Group on Smoking and Health, Munich; Non-Smokers' Initiative for Germany, Munich; Suomenash, Helsinki, Finland; European Observatory on Health Systems & Policies, School of Hygiene and Tropical Medicine, London, U.K.; Center for Global Tobacco Control, Harvard T.H. Chan School of Public Health, Boston, U.S.A.; Center for Tobacco Control Research and Education, University of California, San Francisco, U.S.A.; International Tobacco Control Policy Evaluation Project, University of Waterloo, Canada; numerous scientific associations of Austrian medical specialists (such as cardiologists, oncologists, pneumologists) and other health professions.

During coalition talks, however, Kurz and Strache did not listen to science, but to lobbies like the tobacconists, who reported proudly on their influence on the new government in their newspaper. The decision to roll back the law sparked a strong reaction among the Austrian public; a petition to reverse the decision attracted nearly 100,000 signatures within the first 24 hours.

Austria's already weak and inadequately enforced smokefree law is now slated to be annulled. Prime Minister Kurz fulfilled the wishes of his smoking coalition partner leader Strache to cancel the smoking ban in all hospitality venues. Kurz even agreed to weaken the present regulation, in which innkeepers of small venues are allowed to decide themselves to expose their guests and employees to tobacco smoke. This irresponsible regulation will be extended now to venues up to 75 m<sup>2</sup>, which will encompass many more establishments.

Even apparent bright spots, such as a planned increase to the legal age to purchase tobacco from 16 to 18 do not hold up under scrutiny. While heralded as "improving youth protection", it is used as a fig leaf; in the absence of federal action, it was a move that had already been decided by all nine Austrian provinces. There are also promises that minors

will not be permitted in smoking rooms, and that smoking will be banned in private cars carrying minors. However, there are strong grounds to doubt the effectiveness of these planned reforms, given failures to date in enforcing smokefree hospitality venues. Provincial governments including five OeVP-governed provinces, had expressed their wish for a smokefree hospitality industry. Both smokefree hospitality laws and a ban on cigarette vending machines are a national responsibility. Without these bans, other measures ostensibly for “youth protection” are nothing more than lip service.

Kurz was minister of foreign affairs and is aware that Austria ratified the FCTC in 2005. As Chancellor, he is supposed to take over the presidency of the EU in July 2018, and Austria will lead the European group at the FCTC-CoP in October in Geneva. Kurz could have used this position to demonstrate that Austria is improving in tobacco control, but he decided to slap the face of most of his voters and colleagues from OeVP in order to please a reactionary right wing, pro-tobacco party. This capitulation not only contributes to Austria’s lack of credibility in global tobacco control, it is likely to further exacerbate Austria’s disastrous tobacco epidemic. The smoking ban reversal and other decisions about the tobacco control law, were decided by the party leaders Strache and Kurz and a small group from their parties in the coalition talks.

It remains to be seen if members of parliament are marionettes of their party leaders or able to decide according to their conscience and the wishes of the majority of Austrian voters.

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